IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA NORTHERN DIVISION

No. 2:20-CR-11-FL-1 No. 2:22-CV-14-FL

DEANGELO MAURICE JOYNER,)	
Petitioner,)	
v.)	ORDER
UNITED STATES OF AMERICA)	ORDER
Respondent.)	

This matter is before the court on the Memorandum and Recommendation ("M&R") of United States Magistrate Robert T. Numbers, II, recommending that petitioner's motion to vacate under 28 U.S.C. § 2255 (DE 52, 66-1) be granted in part and denied in part without prejudice as moot; government's motion to dismiss (DE 58, 80) be denied; petitioner's judgment be vacated; and petitioner be resentenced. No objections to the M&R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, petitioner's motion (DE 52 66-1) is granted in part, with respect to the claim that he was incorrectly classified as an armed career criminal, and denied in remaining part without prejudice as moot; the government's motion to dismiss (DE 58, 80) is DENIED; petitioner's judgment is VACATED, and the court sets the matter for resentencing at the October 2023 term of court. In addition, defendant's motions to supplement (DE 73) and for reduction in sentence (DE 77) are TERMINATED AS MOOT in light of the scheduled resentencing, at which defendant may

advance arguments in favor of a reduced sentence. The clerk of court is DIRECTED to close the § 2255 case. The probation office is DIRECTED to prepare an updated presentence investigation report on or before August 30, 2023. Objections, if any, are due September 13, 2023. Final presentence report and addendum, if any, are due September 27, 2023.

SO ORDERED, this the 9th day of August, 2023.

LOUISE W. FLANAON United States District Judge